

1 **SECTION 181.** 30.68 (5m) of the statutes is renumbered 30.66 (5) and amended to read:

2 **30.66 (5) ~~TOWING SLOW-NO-WAKE: TOWING~~ BY A PERSONAL WATERCRAFT.** A person may
3 use a personal watercraft to tow a stranded or disabled boat if, during towing, the speed of the
4 personal watercraft does not exceed slow-no-wake.

5 **SECTION 182.** 30.68 (6) to (8) and (8m) (a) of the statutes are amended to read:

6 **30.68 (6) RIDING ON DECKS AND GUNWALES.** No person operating a motorboat may ride
7 or sit, or may allow any other person in the motorboat to ride or sit, on the gunwales, tops of
8 seat backs or sides or on the decking over the bow of the boat in an unsafe manner while under
9 way, unless ~~such~~ the person is inboard of guards or railings provided on the boat to prevent
10 persons from being lost overboard. Nothing in this ~~section~~ subsection shall be construed to
11 prohibit entry upon the decking over the bow of the boat for the purpose of anchoring, mooring
12 or casting off or other necessary purpose.

13 **(7) ~~RESTRICTED SWIMMING AREAS AND REGULATORY MARKERS.~~** (a) No person shall ~~may~~
14 operate a boat within a ~~water~~ any area ~~which~~ that has been clearly marked by regulatory
15 markers or buoys ~~or some other distinguishing device~~ as a bathing or swimming area; ~~nor,~~

16 **(b) No person may** operate a boat in restricted use areas contrary to regulatory ~~notice~~
17 ~~pursuant to s. 30.74 (2).~~ This subsection ~~does not apply in the case of an emergency, or to~~
18 ~~patrol or rescue craft~~ markers.

NOTE: The deletion of "restricted use areas" clarifies that this provision applies to all regulatory markers, whether or not the regulatory marker designates a restricted use area. See s. 30.68 (14) for the general exception for patrol boats.

19 **(8) ANCHORING IN TRAFFIC LANES.** No person may anchor, place, affix or abandon any
20 unattended boat, raft, float or similar structure in the traveled portion of any river or channel

1 or in any traffic lane ~~established and legally marked~~ designated by aids to navigation, so as
2 to ~~prevent, impede or interfere~~ with the safe passage of any other boat ~~through the same~~.

3 (8m) (a) No person may use a mooring ~~or attach a boat to a mooring buoy~~ if the mooring
4 or mooring buoy violates s. 30.772 or 30.773.

NOTE: "Attach a boat to a mooring buoy" duplicates the prohibition on use of a mooring. "Mooring" is defined in s. 30.01 (3e), when used as a noun, to mean "a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment, unless the term is qualified or restricted".

5 SECTION 183. 30.68 (8m) (c) of the statutes is created to read:

6 30.68 (8m) (c) No person may attach a boat to any aid to navigation or regulatory
7 marker, except to mooring buoys.

NOTE: The prohibition in new sub. (8m) (c) is moved to this location from s. 30.68 (12).

8 SECTION 184. 30.68 (9) and (11) of the statutes are amended to read:

9 30.68 (9) OVERLOADING. No person may operate, and no owner of a boat may allow a
10 person to operate, a boat that is loaded with passengers or cargo beyond its safe carrying
11 capacity, taking into ~~consideration weather and other~~ account existing operating conditions.

12 (11) ~~UNNECESSARILY SOUNDING WHISTLES~~ HORNS; USE OF FLASHING LIGHTS. No person
13 ~~shall~~ may unnecessarily sound a horn, whistle or other sound-producing device on any boat
14 ~~while at anchor or under way~~ on the water. The use of a siren or a light that resembles a light
15 authorized under s. 30.68 (14) (a) on any boat except ~~duly authorized~~ a patrol boats boat on
16 ~~patrol or rescue duty~~ is prohibited.

NOTE: "At anchor or underway" is replaced by "on the water" to make this prohibition broader. For example, the broader language would prohibit unnecessary sounding of a horn while a boat is tied to a dock. "Emergency light" is added to the prohibition on use of a siren.

17 SECTION 185. 30.68 (12) of the statutes is repealed.

NOTE: The prohibition on mooring or fastening a boat to aids to navigation or regulatory markers is deleted here and recreated in s. 30.68 (8m) (c), above.

1 SECTION 186. 30.68 (14) (title) of the statutes is created to read:

2 30.68 (14) (title) PATROL BOATS.

3 SECTION 187. 30.69 (title), (1) (title) and (a) of the statutes are amended to read:

4 30.69 (title) **Water skiing and similar activities.** (1) (title) ~~PROHIBITED AT CERTAIN~~
5 ~~TIMES~~ OBSERVER; EXCEPTIONS. (a) ~~Except as provided in par. (b), no~~ No person may operate
6 a motorboat towing a person on engaged in water skis, aquaplane skiing or a similar device
7 activity unless there is in the boat a competent person in addition to the operator in a position
8 to observe the progress of the person being towed. An observer shall be considered competent
9 if that person who is in a position to observe and can in fact observe the person being towed
10 and relay any signals to the operator. This observer requirement

11 (b) Paragraph (a) or sub. (1r) does not apply to motorboats classified as Class A
12 motorboats by the department actually less than 16 feet long that are operated by the persons
13 person being towed and so constructed as to be incapable of carrying the operator in or on the
14 motorboat.

15 (1g) PROHIBITED AT CERTAIN TIMES. (a) No person may operate a motorboat towing a
16 person engaged in water skiing or a similar activity and no person may engage in water skiing,
17 aquaplaning or a similar activity, at any time from sunset to sunrise. This restriction of the
18 hours of water skiing does not prevent restrictions of the hours of water skiing between sunrise
19 and sunset by local ordinances enacted pursuant to s. 30.77 (3).

NOTE: The reference to local ordinances is eliminated, and all provisions related to local ordinances will be consolidated in s. 30.77. It is proposed to expand this prohibition to apply to the motorboat operator as well as to the person engaged in water skiing or a similar activity.

1 **SECTION 188.** 30.69 (1) (b) of the statutes is renumbered 30.69 (1g) (b) and amended
2 to read:

3 30.69 (1g) (b) Paragraph (a) does not apply to ~~duly authorized~~ water ski tournaments,
4 competitions, exhibitions or ~~trials therefor~~, practice sessions that are conducted under a permit
5 from a local governmental unit that enacts an ordinance under s. 30.77 and where adequate
6 lighting is provided.

NOTE: The reference to "duly authorized" water ski tournaments and other activities is unclear. A specific reference to authorization by means of a permit from a local governmental unit that adopts ordinances under s. 30.77 is substituted for that phrase.

"Practice sessions" is substituted for "trials". The meaning of "trials" is not clear, although one sense of that word is a preliminary competition. The special committee believes that the exemption from the observer requirement is widely understood to apply to all activities related to organized water ski activities, including practice sessions, and that the broader exemption from the observer requirement is appropriate, so the statute is redrafted accordingly.

7 **SECTION 189.** 30.69 (1) (c) of the statutes is renumbered 30.69 (1r) and amended to read:
8 30.69 (1r) PERSONAL WATERCRAFT CAPACITY. ~~In addition to complying with par. (a), no~~
9 No person may operate a personal watercraft that is towing a person who is ~~on~~ engaged in
10 water skis, an aquaplane skiing or a similar device activity unless the personal watercraft is
11 designed to seat at least 3 persons and the operator complies with sub. (1) (a).

12 **SECTION 190.** 30.69 (1) (c) of the statutes is created to read:
13 30.69 (1) (c) Paragraph (a) does not apply to water ski tournaments, competitions,
14 exhibitions or practice sessions that are authorized by a permit from a local governmental unit
15 that enacts an ordinance under s. 30.77.

NOTE: Current s. 30.69 (1) (a) commences with "Except as provided in par. (b)". That provision is recreated above in s. 30.69 (1) (c), with the omission of the reference to the provision of adequate lighting. It appears to be the intent of the current statute that the observer

requirement does not apply to water ski tournaments, competitions, exhibitions or practice sessions under any circumstances.

1 **SECTION 191.** 30.69 (2) of the statutes is amended to read:

2 **30.69 (2) CAREFUL AND PRUDENT OPERATION.** A person operating a motorboat having
3 in tow a person ~~on~~ engaged in water skis, aquaplane skiing or a similar device activity shall
4 operate ~~such boat~~ the motorboat in a careful and prudent manner and at a reasonable distance
5 from persons and property so as not to endanger the life or property of any person.

6 **SECTION 192.** 30.69 (3) (a), (b), (c) 1. to 3. and (d) of the statutes are amended to read:

7 **30.69 (3) (a)** No person operating a motorboat that is towing ~~persons~~ a person engaged
8 in water skiing, ~~aquaplaning~~ or a similar activity may operate the motorboat within 100 feet
9 of any occupied anchored boat, any personal watercraft or any marked swimming area or
10 public boat landing.

11 (b) No person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity may ~~get~~
12 approach within 100 feet of a personal watercraft or allow the tow rope while in use to ~~get~~ come
13 within 100 feet of a personal watercraft.

14 (c) 1. A motorboat towing a person who is engaged in water skiing, ~~aquaplaning~~ or a
15 similar activity.

16 2. The tow rope of a motorboat towing a person who is engaged in water skiing,
17 ~~aquaplaning~~ or a similar activity.

18 3. A person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity.

19 (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked with
20 regulatory markers and that are open to operators of personal watercraft and to persons and
21 motorboats engaged in water skiing or a similar activity.

22 **SECTION 193.** 30.69 (4) of the statutes is amended to read:

1 30.69 (4) INTOXICATED OPERATION. No person may use engage in water skis, an
2 aquaplane skiing or a similar device activity while under the influence of an intoxicant to a
3 degree which renders him or her incapable of safely using engaging in water skis, an aquaplane
4 skiing or a similar device activity, or under the combined influence of an intoxicant and any
5 other drug to a degree which renders him or her incapable of safely using engaging in water
6 skis, an aquaplane skiing or a similar device activity.

7 SECTION 194. 30.70 of the statutes is amended to read:

8 30.70 Skin diving. (1) No person may engage in ~~underwater diving or~~ swimming with
9 the use of swimming fins or skin diving in waters other than marked swimming areas or within
10 150 feet of the shoreline, and no, unless the location of the swimming or diving is marked by
11 a diver's flag. No person may engage in ~~underwater diving or~~ swimming with the use of
12 self-contained any underwater breathing apparatus in waters other than marked swimming
13 areas, unless the location of such the diving or swimming is distinctly marked by a diver's flag,
14 not less than,

NOTE: "Underwater diving" is eliminated and "skin diving" is retained.
Skin diving appears to be a clear reference to all types of diving that do
not involve the use of an underwater breathing apparatus.

15 (2) The diver's flag shall consist of a flag 12 inches high and 15 inches long, displaying
16 one diagonal white stripe 3 inches wide on a red background, and, The diver's flag shall be
17 of a height above the water so as to be clearly apparent at a distance of 100 yards under normal
18 conditions, and so designed and displayed as to be visible from any point on the horizon.
19 Except in case of emergency, ~~anyone~~ no person engaging in such diving or swimming shall
20 not that requires a diver's flag may rise to the surface outside of a radius of 50 feet from such
21 the flag.

1 (3) No person engaged in such diving or swimming shall that requires a diver's flag may
2 interfere with ~~the operation of anyone fishing nor or~~ engage in such diving or swimming in
3 established traffic lanes; ~~nor shall any such person alone or with another, intentionally or~~
4 ~~unintentionally, block or.~~ No person engaged in diving or swimming that requires a diver's
5 flag may obstruct any boat in any manner from proceeding to its destination in its course where
6 a no reasonable alternative is unavailable available. A reasonable alternative route is available
7 when the otherwise unobstructed boat can ~~proceed to its destination~~ pass the diver's flag
8 without reducing its lawful speed, ~~by passing to the right or to the left of a marked diving~~
9 operation while complying with s. 30.68 (5g).

NOTE: This provision is modified to eliminate the requirement that the boat must be proceeding to its destination in order for the prohibition on obstructing the boat to apply. This makes the prohibition on obstructing a boat applicable to any legal course that the boat may take. The added reference to s. 30.68 (5g) is the newly numbered requirement for boats to remain at least 100 feet from a diver's flag.

10 SECTION 195. 30.71 (1) of the statutes is repealed.

NOTE: The definition of "outlying waters" duplicates the definition of that term in current s. 30.01 (4r).

11 SECTION 196. 30.73 (2) (a) of the statutes is amended to read:

12 30.73 (2) (a) ~~Peace officers or rescue units engaged in emergency operations~~ Patrol
13 boats.

NOTE: See the exception for patrol boats in s. 30.64.

14 SECTION 197. 30.73 (4) of the statutes is repealed.

NOTE: Section 30.73 pertains to use regulations on the Brule River. Subsection (4) establishes a penalty by cross-reference to s. 30.80 (1). However, that cross-reference is unnecessary because s. 30.80 (1) provides that it establishes penalties for violation of ss. 30.50 to 30.80 for which a specific penalty is not provided elsewhere.

15 SECTION 198. 30.74 (1) (c) and (d) of the statutes are amended to read:

1 30.74 (1) (c) A valid certificate issued by another state, as defined in s. 115.46 (2) (f),
2 or a province of Canada or the Canadian government that is held by a person ~~will~~ shall be
3 honored if the course content substantially meets that established by the department.

NOTE: Canadian provinces no longer issue boating safety certificates.
 This is done by the Canadian government.

4 (d) The department shall ~~also~~ prepare and disseminate information on water safety to
5 the public, including the informational pamphlets specified in s. 30.52 (5) (a) 4. and (b) 3.

6 **SECTION 199.** 30.74 (2) (a) of the statutes is amended to read:

7 30.74 (2) (a) The department by rule shall establish uniform marking of the ~~water areas~~
8 waters of this state through the placement of aids to navigation and regulatory markers. These
9 rules shall establish a marking system compatible with the system of aids to navigation
10 prescribed by the U.S. coast guard and ~~shall give due regard to the system of uniform waterway~~
11 ~~markers approved by the advisory panel of state officials to the merchant marine council, U.S.~~
12 ~~coast guard.~~

13 ~~(bm)~~ No municipality local governmental unit that enacts an ordinance under s. 30.77
14 or person may mark the waters of this state in ~~any manner in~~ conflict with the marking system
15 prescribed by the department. Any regulatory marker or aid to navigation that does not
16 comply with this marking system is considered an unlawful obstruction to navigable waters
17 and may be removed ~~in accordance with law~~ under s. 30.975.

18 ~~(c)~~ The department may not prohibit the placement of a regulatory marker or an aid to
19 navigation if it complies with this marking system and if it is being placed pursuant to an
20 ordinance ~~that has been enacted in compliance with~~ under s. 30.77.

NOTE: The advisory panel is obsolete.

21 **SECTION 200.** 30.74 (2) (b) of the statutes is repealed.

NOTE: The definitions of these terms are deleted here and recreated as definitions in s. 30.50.

SECTION 201. 30.74 (2) (d) of the statutes is created to read:

30.74 (2) (d) No unauthorized person may move, remove, molest, tamper with, destroy, or attempt to destroy any aid to navigation or regulatory markers, signs or other devices established and maintained to aid boaters.

NOTE: This provision is currently part of s. 30.68 (12).

SECTION 202. 30.74 (3) of the statutes is amended to read:

30.74 (3) **ENFORCEMENT.** The department shall assist in the enforcement of ss. 30.50 to 30.80 and in connection therewith. The department may maintain patrol boats and may operate such the patrol boats at such times and places as the department deems necessary in the interest of boating safety and the effective enforcement of boating laws. Ordinances enacted under s. 30.77 do not apply to patrol boats operated by the department while engaged in law enforcement activities.

NOTE: This allows wardens to more effectively patrol lakes and streams, primarily by avoiding the need to comply with extensive slow-no-wake ordinances.

SECTION 203. 30.742 of the statutes is renumbered 30.5005 (3).

SECTION 204. 30.77 of the statutes, as affected by 2001 Wisconsin Act 16, is repealed and recreated to read:

30.77 Local regulation of boating. (1) DEFINITIONS. (a) "Footage of shoreline" means the length of shoreline in feet measured by use of a map wheel on the U.S. geological survey 7-1/2 minute map series.

(c) "State regulation" means all of the following:

1. The provisions of this section, and ss. 30.50 to 30.71.
2. The penalties in s. 30.80 that apply to the statutes listed in subd. 1.

NOTE: SECTION 30.5005 (1) (b), as created by this draft, provides that a reference to a statute in any of the boating statutes also includes the rules promulgated under that statute. Thus, "state regulation" includes the department of natural resources (DNR) boating rules.

1 **(2) LOCAL REGULATION PROHIBITED; EXCEPTION.** State regulations shall be uniform in
2 operation throughout the state. No local governmental unit may enact an ordinance on any
3 matter pertaining to a state regulation except as authorized under this section, or under another
4 statute that by its express terms permits enactment of an ordinance by a local governmental
5 unit notwithstanding this section.

NOTE: This first part of this subsection restates current law. See current s. 30.77 (1). The purpose of this provision is to establish the policy that state boating laws are intended to be uniform, and that the authorization of local regulation is within the context of this uniformity.

The provision regarding statutory authority other than s. 30.77 is new and states expressly what is the apparent intent of s. 30.77, that this statute is the exclusive authority for local regulation of boating equipment and operations, as well as other matters subject to regulation under this section, unless specific authority is provided elsewhere in the statutes.

6 **(3) DUTIES OF THE DEPARTMENT.** (a) *Assistance.* The department shall draft and
7 disseminate model ordinances that meet the requirements of this section. The department
8 shall consult with and provide assistance to a local governmental unit in the process of
9 enacting and local enforcement of ordinances.

10 (b) *Review of ordinances.* The department shall review ordinances as provided under
11 sub. (10).

12 **(4) JURISDICTION OF LOCAL GOVERNMENTAL UNITS.** (a) *Towns, villages and cities; waters*
13 *of this state.* 1. A town, village or city that has the entire shoreline of an inland lake within
14 its boundaries may enact ordinances applicable to that lake.

1 2. A town, village or city that has both banks of a stream within its boundaries may enact
2 ordinances applicable to that portion of the stream.

NOTE: The current statute authorizes a town, village or city to enact ordinances applicable to both lakes and streams "within its jurisdiction". With respect to streams, the current statute does not clearly define the jurisdiction of a town, village or city. This draft authorizes the town, village or city to enact ordinances applicable to streams within its boundaries (i.e., the town, village or city has territory on both banks of the stream). A later provision, in sub. (4) (e), provides that a town, village or city that is adjacent to a stream may enact ordinances if the town, village or city that is also adjacent to the stream (i.e., on the opposite shore) enacts the identical ordinance.

3 3. Notwithstanding par. (b) 1. to 3. or (c) to (e), a town, village or city may enact
4 ordinances applicable to waters of this state that pertain to issues of local concern to that town,
5 village or city, as provided in sub. (5) (h). If there is a disagreement among local governmental
6 units regarding the appropriate content of an ordinance enacted under this subdivision, or the
7 priority of an ordinance enacted under this subdivision, as provided in sub. (7) (c), the matter
8 may be submitted to the department for a determination.

NOTE: This provision is new. It authorizes ordinances that are of concern only to an individual town, village or city. The provisions regarding priority of local governmental unit authority in sub. (7) (c) make it clear that a town, village, or city ordinance related only to local issues supersedes inconsistent provisions of any other ordinance applicable to the same body of water. The scope of these ordinances of local concern is limited by sub. (5) (h).

9 (b) *Counties.* 1. A county that has both banks of a stream within its boundaries may
10 enact ordinances applicable to that portion of the stream.

NOTE: "Stream" is used instead of "river or stream", which is used in the current statute. There is not a substantive distinction between these 2 terms.

11 2. A county that has the entire shore of an inland lake within its boundaries may enact
12 ordinances applicable to that lake. A county ordinance is void with respect to any lake for

1 which an ordinance is enacted under sub. (4) (a) 1., (c) or (d). For any lake for which an
2 ordinance has not been enacted under sub. (4) (a) 1., (c) or (d), a county ordinance is void with
3 respect to any lake for which a town, village, or city with the entire shoreline of an inland lake
4 within its boundaries adopts a resolution declaring the county ordinance void and files a copy
5 of the resolution with the department. For any lake for which an ordinance has not been
6 enacted under sub. (4) (a) 1., (c) or (d), a county ordinance is void with respect to any lake for
7 which at least 50% of the towns, villages, or cities with a portion of shoreline of the lake within
8 its boundaries, consisting of at least 40% of the footage of shoreline of the lake, adopts a
9 resolution declaring the county ordinance void and files a copy of the resolution with the
10 department.

NOTE: This provision is new. Counties have authority under the current statutes to enact ordinances related only to streams and county marina developments. This draft gives counties the authority to enact ordinances related to an inland lake if the entire shore of the inland lake is within the county boundaries. The county is not required to obtain authorization from the towns, villages, or cities bordering the lake. A county is not required to enact ordinances for all lakes, but rather may determine which lakes within the county merit regulation. Although not stated in the draft, it is obvious that one or more towns, villages, or cities bordering the lake may request the county to enact an ordinance.

Under the current statute, the primary authority to enact boating regulations, or to delegate authority to enact boating regulations, rests with the towns, villages, and cities. Although counties are given authority in this draft to enact boating ordinances, the preeminent authority of towns, villages, and cities is retained. If a town, village, or city enacts an ordinance applicable to a lake or adopts a resolution declaring the county ordinance void, the county ordinance is void with respect to that lake. Similarly, the towns, villages, or cities with concurrent jurisdiction of a lake may adopt a resolution declaring the county ordinance void, if the requisite number of municipalities do so, as provided in this draft. Finally, a town sanitary district or lake district that enacts an ordinance pursuant to authority granted by the towns, villages, or cities bordering a lake renders the county ordinance on that lake void.

1 3. A county may enact ordinances applicable to outlying waters that are contiguous to
2 the county.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to "waters of this state within its jurisdiction". Municipal jurisdiction of outlying waters is determined by the municipal charter. It appears that there is some variability in jurisdiction, with the jurisdiction of some municipalities ending at the water's edge and others extending into the Great Lakes for varying distances. It does not appear that there is substantial reason for towns, villages, or cities to adopt boating regulations on the Great Lakes other than in the near-shore areas. Therefore, this draft provides that counties may enact ordinances applicable to outlying waters. Towns, villages, and cities have authority in sub. (4) (a) 3. to enact ordinances of local concern on outlying waters, whether or not the county has adopted ordinances on those waters.

3 4. A county that operates a marina development adjacent to waters of this state may
4 enact ordinances that relate to the development, operation and use of the marina and the waters
5 adjoining the marina.

6 (c) *Multiple towns, villages and cities; inland lakes; direct regulation.* A town, village
7 or city may enact ordinances applicable to an inland lake if the town, village or city has a
8 portion of the shoreline of the lake within its boundaries and both of the following apply:

9 1. At least 50% of the towns, villages or cities with a portion of shoreline of the lake
10 within its boundaries enact an identical ordinance.

11 2. At least 60% of the footage of shoreline of the lake is within the boundaries of the
12 towns, villages and cities that enact an identical ordinance.

13 (d) *Multiple towns, villages and cities; inland lakes; delegation to a town sanitary*
14 *district or lake district.* A town sanitary district or public inland lake protection and
15 rehabilitation district may enact ordinances applicable to an inland lake if at least 60% of the
16 footage of shoreline of the lake is within the town sanitary district or lake district boundary
17 and both of the following apply:

1 1. At least 50% of the towns, villages or cities with a portion of the shoreline of the lake
2 within its boundaries adopt a resolution authorizing the town sanitary district or lake district
3 to do so.

4 2. At least 60% of the footage of shoreline of the lake is within the boundaries of the
5 towns, villages and cities that adopt the resolution.

6 (e) *Multiple counties, towns, villages and cities; streams.* 1. A town, village or city that
7 is contiguous to a stream may enact ordinances applicable to any portion of the stream if each
8 town, village or city that is contiguous to that portion of the stream on the opposite bank enacts
9 an identical ordinance.

10 2. A county that is contiguous to a stream may enact ordinances applicable to any
11 portion of the contiguous stream if each county that is contiguous to that portion of the stream
12 on the opposite bank enacts an identical ordinance.

NOTE: The current statute does not distinguish between streams within and streams contiguous to a county, town, village or city. This draft makes that distinction, and requires identical ordinances in the latter case. (The requirement to adopt an identical ordinance is determined by the portion of the stream to which the ordinance applies.)

It should also be noted that the requirement for adopting identical ordinances with respect to a stream that is contiguous to a town, village or city does not apply to the provision of this draft related to ordinances regarding local issues of concern only to the town, village or city. See sub. (4) (a) 3., above.

13 **(5) LOCAL GOVERNMENTAL UNITS AUTHORIZED TO ENACT ORDINANCES; STRICT CONFORMITY**
14 **AND CONSISTENCY; PROHIBITIONS.** (a) *Ordinances in strict conformity with state regulations.*
15 A local governmental unit may enact and enforce ordinances under this section that are in strict
16 conformity with state regulations.

NOTE: The current statute, in several instances, authorizes a local governmental unit "to enact and enforce" ordinances. This phrase is not used consistently, and a number of other authorizations in the current

statute refer only to "enacting" ordinances. Ordinarily, authority to enforce an ordinance would be implied by the authority to enact an ordinance. However, the jurisdiction of many local governmental units ends at the water's edge, and the authority to enact ordinances under s. 30.77 is extraterritorial in some cases. This draft retains "enforce" with respect to ordinances in this general grant of authority to enact ordinances. The authority to enforce ordinances is intended to apply to any waters of the state for which the local governmental unit is authorized to enact ordinances.

1 (b) *Strict conformity required.* Ordinances that pertain to any of the following state
2 regulations shall be in strict conformity with the state regulations: ss. 30.61, 30.62, 30.63,
3 30.64, 30.65, 30.67, 30.675, 30.68 (3) (b) and (c), 30.681 to 30.687 and 30.71.

NOTE: The current statutes provide that an ordinance may either be in strict conformity with or "not contrary to or inconsistent with" state regulations. The current statutes further provide that an ordinance which is "not contrary to or inconsistent with" state regulations must relate to "the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.77". The current statute does not provide sufficient guidance to determine which state regulations require strict conformity, and which ones require consistency in the corresponding ordinances. Therefore, this bill draft simply lists the statutes that require strict conformity in ordinances on the same subject. Any statute that meets the definition of "state regulation" in this bill draft, and is not on this list, requires consistency in a corresponding ordinance, but may also be in strict conformity with the state regulations.

4 (c) *Ordinances consistent with state regulations.* Except for state regulations that
5 require strict conformity under par. (b), a local governmental unit may enact and enforce
6 ordinances under this section that are consistent with state regulations if both of the following
7 apply:

8 1. The ordinances are in the interest of public health, safety or welfare, including the
9 public's interest in preserving the state's natural resources.

10 2. The ordinances relate either to the equipment, use or operation of boats or to any
11 activity subject to a state regulation.

NOTE: Current s. 30.77 authorizes certain ordinances that are “not contrary to or inconsistent with” state regulations. “Consistent with” is substituted for that phrase in this bill draft. There does not appear to be any substantive difference between these phrases. “Consistent with” is used in the interest of clarity, without intending any change in the standard for ordinances.

1 (d) *Standards for consistency.* An ordinance is consistent with state regulations if it
2 varies from the specific provisions of state regulations but achieves the same general objective
3 as state regulations, allows free use of the waters of this state within the framework established
4 by state regulations, and is a reasonable restriction on public rights in waters of this state. An
5 ordinance that meets the standards for consistency in this paragraph is not inconsistent with
6 a state regulation solely because the ordinance establishes standards that are more restrictive
7 than the state regulation.

NOTE: This provision creates standards regarding what is meant by “consistency” between ordinances and state regulations. The effect of this statutory standard is to create a framework for the DNR to make comments on the issue of consistency in its advisory review under sub. (10) in this draft, and to guide the decision of the hearing examiner under the objection procedures in sub. (11) of this draft.

The special committee recognizes that it is difficult to draft statutory standards regarding consistency that draw a clear line between ordinances that are consistent and ordinances that are not consistent with state regulations. The new statutory standards are intended to aid in the discussion and adjudication of these issues.

8 (e) *Considerations in enacting ordinances.* In enacting an ordinance for an individual
9 body of water, a local governmental unit may take into account factors that include the
10 following:

11 1. The type, size, shape and depth of the body of water and any features of special
12 environmental significance that the body of water has.

13 2. The amount, type and speed of boating traffic on the body of water and boating safety
14 and congestion.

1 3. The degree to which boating traffic on the body of water affects other recreational
2 uses and the public's health, safety and welfare, including the public's interest in preserving
3 the state's natural resources.

4 (f) *Specific ordinances authorized.* Ordinances authorized under par. (b) include:

5 1. Restrictions on speed.

6 2. Restrictions on certain types of boating activities on all, or on specified parts, of the
7 lake or stream.

8 3. Restrictions on certain types of boating activities during specified hours of the day
9 or specified days of the week.

10 4. Regulation of the operation, equipment, use and inspection of boats carrying
11 passengers for hire that operate from a base within the jurisdiction of the local governmental
12 unit, including reasonable fees for the inspections.

13 5. Reasonable fees for use of a public boat launching facility that the local
14 governmental unit owns or operates.

15 6. Reasonable fees for the local governmental unit's costs for operating or maintaining
16 a water safety patrol unit, as defined in s. 30.79 (1) (b) 2.

17 7. Reasonable fees for the local governmental unit's costs for providing other
18 recreational boating services.

NOTE: The provision regarding fees for "other recreational boating services" retains current law. The special committee discussed the possibility of repealing or modifying this provision, but decided against making changes. The special committee acknowledges that although the current statute authorizes "reasonable" fees, a fee related to boating that might be reasonable for purposes of the police power may nevertheless exceed the bounds of the public trust in navigable waters under art. IX, s. 1, Wis. const. However, the special committee concluded that local governments should have the opportunity to impose reasonable fees that

do not violate the public trust, and that the statute should continue to allow this.

1 (g) *Prohibitions.* 1. An ordinance may not require numbering, registration or licensing
2 of boats.

3 2. An ordinance may not charge a fee for inspection of boats, except as provided in par.
4 (f) 4.

5 (h) *Towns, villages, and cities; issues of local concern.* A town, village, or city may
6 enact ordinances under sub. (4) (a) 3. that relate only to establishing slow-no-wake zones and
7 prohibiting boats from designated areas, and that apply only within the following areas:

8 1. A mooring area designated under s. 30.773 by the town, village, or city.

9 2. A bridge, dam, channel, canal, or other similar hazard to navigation that is within the
10 corporate limits of the town, village, or city.

11 3. Any construction project that requires a permit under subch. II and either is
12 undertaken by the town, village, or city, or is within the corporate limits of the town, village,
13 or city.

14 4. A marina that is either owned by the town, village, or city, or is within the corporate
15 limits of the town, village, or city.

16 5. Any area that is within 200 feet from riparian property or lakebed that is owned by
17 the town, village, or city.

18 6. Any area within a breakwater that is adjacent to the town, village, or city.

19 7. A harbor that is within the corporate limits of the town, village, or city.

20 (6) *RESCINDING AUTHORITY TO ENACT ORDINANCES.* (a) *Multiple towns, villages and*
21 *cities.* If a town, village or city enacts an ordinance for an inland lake under sub. (4) (c) and
22 the town, village or city amends or repeals the ordinance, that ordinance is void for each town,

1 village or city with shoreline on the inland lake unless the requirement of sub. (4) (c) continues
2 to be met for that ordinance.

3 (b) *Delegated jurisdiction.* If a public inland lake protection and rehabilitation district
4 or town sanitary district is authorized to enact ordinances for an inland lake under sub. (4) (d)
5 and a town, village or city rescinds the resolution that delegates jurisdiction, the lake district
6 or town sanitary district may not enact ordinances and any ordinance enacted by the lake
7 district or town sanitary district is void, unless the requirements of sub. (4) (d) continue to be
8 met.

9 (7) PRIORITY OF LOCAL GOVERNMENTAL UNIT AUTHORITY. (a) *Counties.* 1. An ordinance
10 enacted by a county for a stream under sub. (4) (b) 1. or (e) 2. supersedes any provision of an
11 ordinance enacted by a town, village or city for a stream under sub. (4) (a) 2. or (e) 1. that is
12 inconsistent with the county ordinance.

13 2. An ordinance enacted by a county for a marina under sub. (4) (b) 4. supersedes any
14 provision of an ordinance enacted by another local governmental unit that is inconsistent with
15 the county ordinance.

16 (b) *Town sanitary districts and lake districts.* An ordinance enacted by a public inland
17 lake protection and rehabilitation district or a town sanitary district for an inland lake under
18 sub. (4) (d) supersedes any provision of an ordinance enacted by a town, village or city under
19 sub. (4) (a) 1. or (c) that is inconsistent with the lake district or town sanitary district ordinance.

20 (c) *Towns, villages or cities; ordinances of local concern.* An ordinance enacted by a
21 town, village or city for any waters of this state under sub. (4) (a) 3. supersedes any provision
22 of an ordinance enacted under sub. (4) (b) 1. to 3. and (c) to (e) that is inconsistent with a town,
23 village or city ordinance under sub. (4) (a) 3.

1 (8) POSTING REGULATIONS. All ordinances shall be prominently posted by the local
2 governmental unit that enacted them at each point of public access within the local
3 governmental unit. For ordinances enacted under sub. (4) (c), the ordinances shall be posted
4 by each local governmental unit at any point of public access to the lake or stream within the
5 boundaries of that local governmental unit.

6 (9) LOCAL GOVERNMENTAL UNIT HEARINGS. (a) *Hearing required; ordinances.* A local
7 governmental unit shall hold a public hearing under this subsection before enacting, amending
8 or repealing an ordinance.

9 (b) *Hearing required; resolutions.* A local governmental unit shall hold a public
10 hearing under this subsection before rescinding a resolution that is adopted under sub. (4) (d).

11 (c) *Procedures.* 1. The public hearing shall be held at least 30 days before the ordinance
12 is enacted, amended or repealed or the resolution is rescinded. If the action on the ordinance
13 or resolution is proposed by more than one local governmental unit, the local governmental
14 units may publish the notice and conduct the public hearing jointly.

15 2. The local governmental unit shall publish a notice of the public hearing at least 30
16 days before the public hearing in one or more newspapers likely to give notice of the hearing
17 in all towns, villages, cities and counties that have shoreline of the lake or stream within their
18 boundaries. The notice shall be a class 1 notice under ch. 985.

19 3. The local governmental unit shall send a copy of the notice at least 30 days before
20 the hearing to the department, each town, village, city or county that has shoreline of the lake
21 or stream within its boundaries and, if the proposal relates to an inland lake, to each lake
22 association for the lake and each public inland lake protection and rehabilitation district for
23 the lake.

NOTE: This provision expands and harmonizes the current requirements for a public hearing. This draft requires a public hearing each time an ordinance is proposed to be enacted, amended or repealed, or a resolution rescinded, rather than the more limited requirements in the current statute. A public hearing must be held under this draft for all ordinances, rather than only those affecting inland lakes, as under the current statute. This draft applies the public hearing requirement to the amendment or repeal of an ordinance, rather than to only the enactment of an ordinance, as under the current statute. This draft requires all local governmental units to give notice of the public hearing, rather than only the one with the most shoreline, as under the current statute.

1 **(10) REVIEW BY DEPARTMENT. (a) *Review required.*** 1. The department shall review each
2 ordinance or amendment to an ordinance proposed under this section to determine if the
3 ordinance complies with this section.

NOTE: This expands the scope of DNR review so that it applies to all ordinances enacted or amended under s. 30.77. The current statute applies DNR review only to ordinances regarding the equipment, use or operation of boats and only to inland lakes. This expands DNR review to apply to streams and outlying waters as well, and to any other ordinances regarding boating.

4 2. This paragraph does not apply to a resolution adopted or rescinded under sub. (4) (d),
5 or to the repeal of an ordinance.

6 **(b) *Copy of ordinance to department.*** The local governmental unit shall submit a
7 proposed ordinance to the department at least 60 days prior to final action on the ordinance.

8 **(c) *Report by department.*** The department shall prepare a report of its review, including
9 findings regarding compliance of the ordinance with this section, and making suggestions for
10 changes that would make the ordinance comply with this section.

11 **(d) *Deadline for department review.*** The department shall complete its review within
12 20 days after receiving a copy of the proposed ordinance.

13 **(e) *Distribution of report.*** The department shall send a copy of the report to each local
14 governmental unit affected by the ordinance.